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In the Supreme Court of the United States

OCTOBER TERM, 1977

TELEPHONE COORDINATING COUNCIL TCC-1, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, PETITIONER

v.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, ET AL., RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

REPLY BRIEF FOR PETITIONER

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This brief is intended to bring to the Court's attention the Fourth Circuit's recent decision in *White* v. *Carolina Paperboard Corp.*, — F.2d —, 15 EPD ¶ 7843 (Sept. 23, 1977), and to respond to misleading assertions of fact in the Brief in Opposition of Federal Respondents.

1. The Government's brief (pp. 7, 23 n. 27) erroneously implies that the consent decree allows AT&T and the Unions "to negotiate alternatives" to the remedial quota ("override") provisions of the consent decree. It fails to mention the statement in the decree that "All of the Bell Companies' obligations in this Decree are required for compliance with Federal law" (App. 139), and the fact that the parties to the decree consistently have viewed the quota provisions

as not subject to change through collective bargaining.

2. In *White v. Carolina Paperboard Corp.*,—F.2d —, 15 EPD ¶ 7843 (Sept. 23, 1977), the Fourth Circuit, "agree[ing] with the observation of the Second Circuit which recognized a quota's potentially harmful impact on the work force" (15 EPD at p. 6219), declined to approve the imposition of remedial quotas "where, as here, adequate relief can be obtained without their use" (15 EPD at 6219). Notwithstanding the Government's implication to the contrary (brief, p. 23 n. 27), the fact remains that the district court here did *not* make a finding that quota relief was *required* to remedy the violation.

3. The Government's attempted distinction (brief, p. 23 n. 27) of *Myers* v. *Gilman Paper Corp.*, 544 F.2d 837, 858-59 (5th Cir.) is based on a misleadingly stated premise, at least insofar as this petitioner is concerned. As in *Myers,* this petitioner sought to invoke the collective bargaining process prior to the entry of the AT&T consent decree for the specific purpose of negotiating alternatives to remedial quotas. This effort was spurned by the Goverment (and AT&T) who limited petitioner's role to one of discussions with the Government. Even in that relegated status,* petitioner suggested language for other provisions of the decree which were accepted and incorporated therein. Those

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* That status was the basis for the district court's exaggerated characterization, at an earlier stage of this litigation, of this petitioner's role as a full party to the "settlement . . . hammered out" (365 F. Supp. 1105, 1108). See also AT&T's letter to the Clerk of this Court, dated October 26, 1977, modifying p. 20 n. 23 of its brief.

provisions (App. 126-128) establish the right of employees to compete for promotion, transfer, lay off and recall on the basis of company-wide seniority, and limit "residency" qualifications for promotion and transfer. The non-quota provisions of the decree, we submit, constitute adequate relief for victims of discrimination, and the district court did not find to the contrary.

Respectfully submitted,

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